

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #1	CCRB Case #: 202003725	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 3:30 PM	Location of Incident: Westside Highway and West 96th Street	Precinct: 24	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 05/31/2020 11:32 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 05/31/2020 11:32 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Gerard Garced	29976	965122	034 PCT
2. SGT Gypsy Pichardo	02623	942353	034 PCT
3. POF Jacklyn Castillo	10531	960340	SRG 2
4. POF Ileana Feliz	25565	950538	SRG 3
5. POM Kevin Obrien	02141	947306	SRG 3
6. POM Henry Yanez	17147	935999	SRG 3
7. POM Joshua Ramirez	23651	954261	SRG 3
8. POM Justin Pichon	21319	959894	SRG 3
9. POM Stephen Centore	31854	936328	DIS CTL
10. POM Matthew Loftus	30986	925623	SRG 4
11. POM Elijah Rodriguez	27693	965469	034 PCT
12. POM Harry Kerr	22551	962522	SRG 2
13. POF Sandra Gonzalez	14838	961793	SRG 2
14. POM Robert Mcneill	21758	955174	SRG 3
15. POM Giuseppe Gentile	09948	952773	SRG 2
16. POM Miguel Salgado	09053	951197	SRG 3
17. POM Frederick Alleyne	00312	948609	SRG 3
18. SGT Mitchell Epstein	04662	954774	SRG 3
19. SGT Roberto Dominguez	01019	938384	SRG 2
20. LT Gzim Palaj	00000	946091	SRG 3
21. POF Yorlly Cyriaque	08538	951648	SRG 4
22. POM Jeffrey Robertson	01029	940647	SRG 4
23. POM Wendell Kornegay	23426	900426	SRG 3
24. POM Kevin Thomas	24437	942919	SRG 3
25. POM Omar Tejada	11809	956296	SRG 2
26. POM Brendan King	3712	955010	SRG 3
27. LSA Patrick Mulcahy	00000	919450	PBMN

<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>
28. DC John Dadamo	00000	913627	SRG
29. CTB Kathleen Oreilly	00000	913788	TB

<b>Officer(s)</b>	<b>Allegation</b>	<b>Investigator Recommendation</b>
A. An officer	Force: An officer used physical force against an individual.	

### **Case Summary**

On May 31, 2020, § 87(2)(b) filed this complaint via the CCRB website on behalf of an unidentified individual.

On May 30, 2020, at approximately 3:30 p.m., § 87(2)(b) and a large group of unidentified individuals participated in a George Floyd protest march that began in Harlem and headed towards the Westside Highway in Manhattan. As the protestors approached the southbound West 96<sup>th</sup> Street exit on the highway, multiple officers lined up at the intersection, and marched north towards the protestors. The protestors crossed from the southbound section of the highway onto the northbound section. The officers chased after the protestors. An unidentified officer grabbed one of the protestors who attempted to jump over a fence and pulled him to the ground (**Allegation A: Force, § 87(2)(g)**).

Multiple arrests and summonses resulted from this incident (Board Review 01 -Board Review 02).

Three cellphone video, and twenty-two police body worn camera footages were received for this incident but failed to capture the allegation (Board Review 03, Board Review 04, Board Review 15).

### **Allegation (A) Force: An officer used physical force against § 87(2)(b)**

§ 87(2)(b) (Board Review 05) was at the protest with two other friends, whose names and contact information § 87(2)(b) did not wish to provide, and said she did not know any of the other civilians at the protest. She could not estimate the number of people who participated in the protest, but said the crowd was big enough that the civilians filled up both the sidewalk and roadway on the southbound section of the highway. The highway is a six-lane boulevard divided into two sections facing north and south, respectively. There are three lanes in each direction, and there is a sidewalk east of the northbound section of the highway, which is separated by a fence (Board Review 14). § 87(2)(b) did not recall seeing any vehicular traffic on the southbound section of the highway, but said there was steady traffic on the northbound section. She did not know why there was traffic on the northbound section but not on the southbound section. § 87(2)(b) said the protestors were generally peaceful, and they moved to the northbound section of the highway to avoid contact with the officers who were approaching them from the south. The officers grabbed and arrested some of the protestors in the highway. § 87(2)(b) observed a protestor, who she could only described as a black man, attempting to scale a four-foot fence on the east side of the northbound traffic. An officer pulled the man off the fence and immediately handcuffed and escorted him away from the scene. § 87(2)(b) could not describe the officer who pulled the protestor off the fence or any other officer.

The cellphone footage § 87(2)(b) provided (Board Review 03) depicts a large group of protestors on the sidewalk on what appears to be to east of the northbound section of the West Side Highway. The protestors are yelling and screaming at a group of uniformed officers who are in the northbound roadway. There does not appear to be any vehicles on either the north or southbound sections of the highway. The footage does depict any of the allegations in this case.

The cellphone footage from § 87(2)(b), (Board Review 15), depicts a large group of protestors marching in the roadway of the southbound section of the highway. There are no vehicles on the southbound section, but there is heavy traffic on the northbound section of the highway. The footage does not depict any of the allegations in this case.

A total of 22 BWCs were received in relation to this protest, but none of the videos depict the allegation in this case, nor do they depict any excessive use of force. Footage labelled AXON\_Body\_2\_Video\_2020-05-30\_1525- PO PALAJ.mp4 (Board Review 04), shows Lt. Gzim Palaj and approximately 20 uniformed officers from multiple Strategic Response Group (SRG) units and NYPD Legal Bureau standing at the West 96<sup>th</sup> Street exit of the highway on both the north and southbound sections. There are no oncoming vehicles or protestors on either section of the highway. At 01:12, Deputy Chief John D'Adamo, identified via investigation, instructs the

officers to walk north and that anyone in the street is under arrest. DC D'Adamo tells the officers that they do not need to issue any warning before making arrests. The officers walk north on both sections of the highway. At 02:41, Lt. Palaj and some officers approach a group of protestors, who are standing in the northbound section of the highway. The officers grab some of the protestors, and place them in flex cuffs. At 02:56, Lt. Palaj grabs a black male standing in the street and places him in flex cuffs without any incident. At 03:04, Lt. Palaj chases after another black male, who is also in the highway, but a white woman steps between Lt. Palaj and the black male, and thus causes the black male to run further north on the highway. At 03:12, Lt. Palaj attempts to grab the white woman, but she runs towards the fence that separates the sidewalk and the highway. There is a large crowd of protestors on the sidewalk yelling and screaming at the officers. The few remaining protestors in the highway are placed in handcuffs without any incident. At 04:22, vehicles appear to be moving on the southbound section of the highway. At 08:25, there are a number of vehicles stuck in traffic on the northbound section of the highway. At 09:13, the protestors appear to have moved from the streets to the sidewalk. Officers from the Motorcycle and Scooter Task Force (MSTF) arrive on scene, but remain on their motorcycles.

Footage labelled AXON\_Body\_2\_Video\_2020-05-30\_1525- PO EPSTEIN.mp4 (Board Review 04), shows Police Officers Mitchell Epstein and Roberto Dominguez all from SRG 3 escorting two protestors to a police van. At 13:55, an officer from the NYPD Legal Bureau asks PO Epstein and Dominguez if they observed the arrested individuals in the roadway. The officers reply yes. The officer from the Legal Bureau informs the two officers that the arrested protestors would be receiving "C-summons" for blocking the roadway.

Lt. Palaj's testimony (Board Review 06) was consistent with the BWC footage. He said he and his team of approximately 24 officers from the SRG Mobile Field Force were requested to the scene because the protestors were in the highway and were obstructing vehicular traffic. DC D'Adamo and the NYPD Legal Bureau officers instructed the officers to arrest everyone observed in the highway. Lt. Palaj did not recall what offense the protestors were charged with, but said possibly disorderly conduct. Lt. Palaj denied pulling any civilian off a fence, nor did he see any other officer do same. He also denied that the officers used any form of excessive physical force against any of the civilians, and said whatever force was used, was consistent with being placed under arrest.

There is no Threat Resistance and Injury (TRI) or AIDED reports prepared for this incident (Board Review 07), and the 24<sup>th</sup> Precinct summons log (Board Review 01) revealed that 17 civilians were arrested at the incident location and issued summonses for unauthorized use of a highway. The pedigree descriptions for three of these civilians matched the description § 87(2)(b) provided for the alleged victim. Two of the civilians denied being the alleged victim in this case, and the third individual was unavailable to the investigation (Board Review 08).

In order to provide for maximum safe use of the expressways, drives, highways, interstate routes, and bridges, and to preserve life and limb thereon, the use of such highways by pedestrians is prohibited. New York City Traffic Rules and Regulations, Chapter 4, section 4-12(O)(1) (Board Review 09).

NYPD Patrol Guide Procedure 221-01, permits officers to use force when it reasonable to ensure their safety or a third party, and to gain compliance and prevent escape from custody (Board Review 10).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 11).

**Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of January 5, 2021, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards this to complaint (Board Review 12).
- According to the Office of Court Administration (OCA), § 87(2)(b) does not have any history of convictions in NYC (Board Review 13).

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Squad No.: 1

Investigator:	<u>Enoch Sowah</u>	<u>Inv. Sowah</u>	<u>12/31/2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Mgr. Joy Almeyda</u>	<u></u>	<u>12.31.20</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date